

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 838 of 2006 (M/B)

Date of decision: 20th July, 2006

A.F.R. (Approved for Reporting)

~~Not Approved for Reporting~~

Date 20.7.2006

Initials of Judge

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 838 of 2006 (M/B)

Vishal Kumar s/o Santosh Kumar,
r/o Mohalla Naksha,
P.S. Sungholi,
District Pilibhit (U.P.) Petitioner

Versus

1. State of Uttaranchal
through its Secretary Home, Dehradun.
2. S.H.O. Kashipur, District Udham Singh Nagar.
3. Smt. Vidya Devi w/o Sri Ram Balmiki,
r/o Mohall Maheshpura, P.S.Kashipur,
District Udam Singh Nagar Respondents
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Mrs. Pushpa Joshi, Advocate for the petitioner.
Sri D.K.Sharma, Government Advocate for respondents 1 and 2.

JUDGMENT

**Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.**

RAJEEV GUPTA, C. J. (Oral)

Mrs. Pushpa Joshi, Advocate for the petitioner.
Sri D.K.Sharma, Government Advocate for respondents 1 and 2.
They are heard on admission.

2. Petitioner Vishal Kumar s/o Santosh Kumar has filed this writ
petition for the following reliefs:

- “i) Issue a writ, order or direction in the nature of certiorari to quash the F.I.R. dated 03.07.2006 registered as Case Crime No. 3765 of 2006 under section 147, 302 I.P.C. Police station, Kashipur, District Udham Singh Nagar.
- ii) Issue a writ, order or direction in the nature of mandamus commanding the respondent no. 1 and 2 not to arrest the petitioners in pursuance of the FIR dated 3.7.2006 registered as Case Crime No. 3765 of 2006, under Section 147, 302 I.P.C. Police station Kashipur, District Udham Singh Nagar.
- iii) Issue any other appropriate writ, order or direction which this Hon'ble Court deem fit and proper under the circumstances of the case.
- iv) Award cost of the petition.”

3. The petitioner is apprehending his arrest for his alleged involvement in case Crime No. 3765 of 2006 registered at Police station Kashipur, district Udham Singh Nagar for the alleged commission of the offences punishable under section 147 and 302 read with Section 149 of the Indian Penal Code.

4. According to the First Information Report, the accused persons including one Kamal Kumar are alleged to have committed murder of one Toni by causing multiple injuries on him on 02.07.2006.

5. The learned counsel for the petitioner vehemently argued that in the First Information Report lodged by respondent no. 3 Smt. Vidya Devi, though several persons are named as assailants of Toni, the name of petitioner Vishal Kumar does not find any mention.

6. Sri D.K.Sharma, the learned Government Advocate referring to the case diary statements of eye witnesses Pravin Kumar and Rajendra Vyas, submitted that these two eye witnesses have categorically named petitioner Vishal Kumar as one among the assailants of Toni and have further clarified that Vishal Kumar has another alias name as Kamal Kumar.

7. On due consideration of the submissions of the learned counsel for the parties; the contents of the First Information Report lodged by respondent no. 3 Vidya Devi; the case diary statements of eye witnesses Pravin Kumar and Rejendra Vyas, we are of the opinion that it is not a fit case for quashing the First Information Report and the case registered against the petitioner who is alleged to have committed an offence punishable under Section 302 read with section 149 of the India Penal Code.

8. The writ petition, therefore, fails and is hereby dismissed summarily.

9. With the above order, CLMA No. 8859 of 2006 also stands dismissed.

(Prafulla C. Pant, J.) (Rajeev Gupta, C. J.)
20.07.2006 20.07.2006

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